

IVEY, McCLELLAN, GATTON & TALCOTT, L.L.P.

CHARLES M. IVEY, III*
ROBERT L. McCLELLAN
EDWIN R. GATTON
JAMES K. TALCOTT*
LILLIAN H. PINTO

JOHN M. BLUST
DIRK W. SIEGMUND
ERIC A. RICHARDSON
MARY BETH SWECKER**
* BOARD CERTIFIED SPECIALIST IN
BUSINESS AND CONSUMER
BANKRUPTCY LAW
** ALSO LICENSED IN PENNSYLVANIA

ATTORNEYS AND COUNSELLORS AT LAW
121 SOUTH ELM STREET
GREENSBORO, NORTH CAROLINA 27401

CHARLES M. IVEY, JR.
(1914-1993)
MAILING ADDRESS:
POST OFFICE BOX 3324
GREENSBORO, NORTH CAROLINA
27402
TELEPHONE: (336) 274-4658
FAX: (336) 274-4540

March 18, 1998

Richard Panosh, Esq.
Guilford County District Attorney's Office
Post Office Box 2378
Greensboro, NC 27402

Re: State of North Carolina v. Theodore Kimble; State of North Carolina v.
Ronnie Kimble - Trial Scheduling

Dear Dick:

We have recently received information that upon having approached Judge Beale with regard to scheduling of the above matters, he was unwilling to accept trial of these matters during the April terms of court. Presuming that to be the case, I would like to suggest we again turn to efforts of trying to find a trial date suitable for all of the parties involved.

As you know, in November we met and attempted to find a date that would be suitable to all of the parties. We could not arrive at such a date, in that you felt that there was no available May dates and you preferred a March date. We voiced our concerns at that point with regard to both sufficient time to complete our investigation, and difficulties in resolving our investigator problems.

As a result of no apparent agreement, Mr. Bryson has agreed to May with another member of your staff as a potential trial date for another death penalty case. Each of the defense attorneys have conflicts posed as a result of other scheduled matters. Also we are still awaiting the availability of the investigator.

The continued prospect of term-to-term scheduling of such a serious case is disruptive to our respective practices, but has to be also very disruptive in arriving at your own scheduling, as well as all parties being truly prepared for trial.

In trying to arrive at a date, please consider that our previous suggestions were not lightly arrived at. In reviewing the months ahead, we must recover our investigator and complete elementary portions of our investigation, Mr. Bryson must resolve the May trial conflict problem, the month of June and July include the Judges conference, previously noticed vacation weeks, and Mr. Bryson's family concerns. In discussing these problems among defense counsel, rather than having to work continuously around scheduling obstacles, we felt it would be best to find a block of time that all attorneys are available, vacations are not impending, and for which immediate agreement is possible. We can commit to an August-September date because there are no impediments at this point.

As we all know, even these blocks of time that are several months away do not remain pristine for long. Other courts, and especially federal conflicts, adopt dates several months in advance and tend to act as if they are inflexible and scheduled with peremptory effect. In order to avoid this problem, we again suggest that we come to a mutual agreement shortly to a trial period that all parties are aware of and will commit to.

We understand your concern in adopting a date or period in which the trial judges have not been announced. We ourselves are not aware of who has been assigned nor the weeks of trial that are scheduled. It is not our strategy to pick a particular judge, or for that matter force trial at a particular week. If we could arrive at a general period in which the trial would begin, during the month of August or September, we would be willing to let you select your preferred judge and the week the trial would commence. We would only ask that you inform us of your court and trial term as soon as reasonably possible. We will make all efforts to avoid any prospective conflicts during the time we think it would be necessary to complete trial of the case.

Early in this case, I have discussed with the other attorneys the need to avoid emotional and sometimes bitter disputes as to the underlying facts and circumstances raised by family and witnesses. We discussed the necessity that all the attorneys, including yourself, must attempt to work together to keep the case on a professional and workmanlike relationship. Committing to an agreed upon and mutually acceptable schedule for the trial date would aid in this. We still hope we can come to an agreement, and avoid situations where in other districts the courts have actually had to step in and adopt case management plans, or micro manage individual cases.

We would certainly be willing to meet with you again, or discuss any alternatives or problems we should consider in the scheduling.

Thank you for your assistance and we look forward to hearing from you.

Yours sincerely,

IVEY, McCLELLAN, GATTON & TALCOTT, L.L.P.



Robert L. McClellan

RLM/am